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Chairman: Mr. ESCOVAR-SALOM (Venezuela)

CONTENTS

AGENDA ITEM 142: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS

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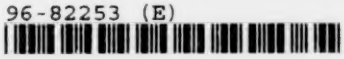

The meeting was called to order at 10.05 a.m.

AGENDA ITEM 142: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (A/51/215 and Corr.1 and Add.1)

1. Ms. SUCHARIPA-BEHRMANN (Austria) said that the international community had attempted to prohibit the use of force as a means of solving international disputes by eliminating it from the scope of the legally admissible conduct of States and declaring it to be a particularly grave delict which could even be seen as a violation of peremptory norms of international law. Nevertheless, it could not be denied that those efforts had failed because States had resorted to that outlawed method again and again. As a result, rules of humanitarian law had been elaborated, which at least tried to alleviate the horrors of armed conflict and to protect the victims thereof. The Geneva Conventions of 1949 and the Protocols additional thereto were of fundamental importance in that regard. The problem was not that there were no rules of humanitarian law but that they were not fully implemented.

2. Humanitarian law not only covered international conflicts but also extended to conflicts of a non-international character, the incidence of which had recently increased dramatically. It was vital that fundamental standards of humanity should be respected in that second category of conflicts, which gave renewed importance to Protocol II dealing with non-international armed conflicts. A stricter adherence to its provisions would constitute major progress towards benefiting the victims of such conflicts.

3. One of the most important achievements of Protocol I had been the creation of the International Humanitarian Fact-Finding Commission. Even though its competence had been recognized by 49 States, no case had thus far been submitted to the Commission. States should bear in mind that the Commission's primary task was not only to establish facts, but also to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and the Protocol. The Commission's task was not to judge and condemn either party but to assist States in achieving a situation in which basic principles of humanity were respected. In addition, the existence of the Commission rendered superfluous the establishment of other bodies entrusted with similar tasks. Her Government therefore urged States to accept the competence of the Commission and adhere to the Additional Protocols and to the rules of humanitarian law in general.

4. Ms. GAO Yanping (China) said that the four Geneva Conventions of 1949 and the two Protocols additional thereto relating to the protection of the victims of armed conflicts, which were the international legal instruments with the largest number of State parties, had made important contributions to protecting the legitimate rights and interests of the victims of war and civilians during armed conflicts, and to reducing and mitigating the impact of such conflicts on the wounded and prisoners of war in the armed forces and the civilian population. For that reason, her Government had accepted the Conventions and their Additional Protocols and had implemented the relevant provisions thereof in good faith, since it firmly believed that every State was inescapably bound

to respect and comply with the norms of humanitarian law. Her delegation appealed to States to accede to those instruments as soon as possible and to expedite their domestic constitutional procedures to that end. Although all members of the international community must combine their efforts to promote respect for and compliance with international humanitarian law, the most effective way of protecting the victims of armed conflicts was for each nation to renounce the use and threat of force and to seek peaceful solutions to its disputes in accordance with the universally accepted principles of international law and the purposes and principles of the Charter of the United Nations.

5. The International Federation of the Red Cross and Red Crescent Societies had, since its establishment as an international, humanitarian, non-governmental, non-political and independent organization, made contributions throughout its history to protecting the victims of armed conflicts and promoting world peace through its wide-ranging international humanitarian activities. At its 26th session in December 1995, the Assembly of the International Committee of the Red Cross had discussed such issues, including, in particular, the protection of the most vulnerable groups such as women and children, at length. Such activities were praiseworthy and should be strengthened. Her delegation hoped that, as a result of the present discussion, more countries would become parties to the Geneva Conventions of 1949 and their two Additional Protocols so that the norms of international humanitarian law would be universally accepted and applied.

6. Mr. Kak Soo SHIN (Republic of Korea) said that 40 years previously his country had been ravaged by a war which had inflicted enormous casualties and untold suffering on innocent civilians. Since then, his Government had attached great importance to international humanitarian law and firmly believed that the 1949 Geneva Conventions and the 1977 Protocols had made and would continue to make an enormous contribution to the easing of human suffering in armed conflicts both within and between States. Despite the end of the cold war, many States had witnessed internal conflict fuelled by ethnic, racial, cultural or religious hatred; internal conflicts of that sort were much more damaging to society than international conflicts. In such cases, the role of international humanitarian law assumed heightened significance. His delegation was pleased to note that the number of States parties to Protocols I and II had increased, although adherence was far from universal. His Government urged States to accede to the Protocols as soon as possible, thereby providing those instruments with a virtually universal character similar to that of the 1949 Geneva Conventions. The more universal the two Protocols became, the stronger their normative force would be. At the same time it was essential to promote wider dissemination and more effective implementation of the Protocols at the domestic level. No matter how many States became parties to the Protocols, the latter would be little more than scraps of paper unless their provisions were fully implemented. His delegation hoped that the relevant resolution would reflect that idea in the clearest possible manner.

7. His Government had been one of the original signatories to the two Protocols and, under his country's Constitution, their provisions had binding force in the Republic of Korea without requiring separate domestic legislation. Moreover, civilian and military criminal law and the National Red Cross Law could be simultaneously applied to offences covered under the two Protocols.

His Government had invested significant material and human resources in educating members of the armed forces about the letter and spirit of the two Protocols, and had revised the code of conduct for members of the Korean military accordingly. In addition, international humanitarian law had been made a compulsory subject in military education at all levels. Most of the dissemination work had been done by the National Red Cross in close cooperation with academic and government circles. In 1973, the National Red Cross had launched the Humanitarian Law Institute which, in collaboration with the Humanitarian Law Advisory Committee, had played a pivotal role in promoting the study and dissemination of international humanitarian law. In reaffirming its commitment to the norms and principles of international humanitarian law, which were a bastion of human conscience that safeguarded human rights during armed conflicts, his Government reiterated its readiness to fully cooperate with the international community in the dissemination of the two Protocols of 1977.

8. Mr. BAENA SOARES (Brazil) said that international humanitarian law had been acquiring increasing relevance for the work of the United Nations. While the increase in the number of States parties to the Protocols Additional to the Geneva Conventions of 1949 was cause for satisfaction, the General Assembly must renew its appeal to those States that had not yet done so to become parties at the earliest possible date. The Assembly should also call upon States to make the declaration accepting the competence of the International Fact-Finding Commission. Unfortunately, wider acceptance of those legal instruments would not automatically result in respect for the standards of behaviour which they prescribed and still left open the question of their practical implementation. The many recent examples of violations of those standards highlighted the importance of continued international efforts to promote respect for humanitarian law.

9. Brazil was party to all the instruments in the field of international humanitarian law and had made the declaration referred to in the paragraph above. It supported the recommendations of the International Conference of the Red Cross and Red Crescent, which had been held in Geneva in January 1996, and, in accordance with those recommendations, it had been promoting the dissemination of the rules of humanitarian law at the national level through civilian and military programmes. It was also worth noting that, with the assistance of the International Committee of the Red Cross, the military personnel sent to participate in United Nations peacekeeping operations were trained to respect humanitarian norms. The participation of a Brazilian expert in the International Fact-Finding Commission demonstrated Brazil's commitment to contributing to the examination of alleged violations of international humanitarian law and to the restoration of the rule of law. As a strong opponent of the use of force in international relations, Brazil would continue to do its utmost, at the regional and international levels, to promote the settlement of disputes through diplomacy and other peaceful means. Respect for international humanitarian law remained essential, given the stark realities which placed the elimination of armed conflict beyond reach for the foreseeable future. The international community must therefore continue to count on the invaluable contribution of the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies and find ways to ensure adequate protection of victims of armed conflicts.

10. Mr. SALAND (Sweden), introducing the draft resolution on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/C.6/51/L.9), which was sponsored by Australia, Austria, Canada, Chile, Denmark, Finland, Iceland, New Zealand, Norway, Romania, Russian Federation, Spain and Sweden, said that the purpose of the draft resolution was to stress the importance of the existing body of international humanitarian law and the need to make its implementation more effective and to increase the already wide acceptance of the two Protocols Additional to the Geneva Conventions of 1949. The new elements of the draft resolution related to the holding in late 1995 of the very important Twenty-sixth International Conference of the Red Cross and Red Crescent, whose success was reflected in the last preambular paragraph and in operative paragraphs 4 and 5 of the text. In paragraph 4, the draft noted with satisfaction that the Twenty-sixth International Conference had endorsed the Final Declaration of the International Conference for the Protection of War Victims. In paragraph 5, it further noted that the Twenty-sixth International Conference had also endorsed the recommendations aimed at translating the Final Declaration into concrete measures, including the recommendation that the Depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to those Conventions to consider general problems regarding the application of international humanitarian law.

11. Mr. SCHELLENBERG (Observer for Switzerland) said that, although the number of States parties to the Protocols Additional to the Geneva Conventions of 1949 had increased, the Protocols' provisions were frequently violated in the conflicts that took place in different parts of the world. Thus, three quarters of all States were obliged to observe very detailed norms for the protection of victims of armed conflicts even as the most fundamental norms of humanitarian law were being flouted. The Twenty-sixth International Conference of the Red Cross and Red Crescent had solemnly reaffirmed that all States were under an obligation to respect the principles and norms of humanitarian law and that States parties to the Geneva Conventions and the Protocols Additional thereto should ensure respect for those instruments.

12. In the field of humanitarian law, it was now more important than ever before to expand and strengthen the monitoring mechanisms. In that connection, the creation of the International Tribunals for the former Yugoslavia and Rwanda marked an important step forward. His delegation hoped that the Draft Statute for an International Criminal Court would be adopted as early as possible.

13. Finally, Switzerland wished to recall the existence of the International Fact-Finding Commission, which was an invaluable instrument for the impartial investigation of allegations of violations of humanitarian law and urged States that had not yet done so to recognize the competence of that Commission.

14. Mr. ZIMMERMANN (Observer for the International Committee of the Red Cross) said that, by 8 June 1997, the date of the twentieth anniversary of the adoption of the Protocols Additional to the Geneva Conventions of 1949, universal recognition of those treaties should have been achieved, especially in view of the proliferation of armed conflicts.

15. Among the mechanisms expressly designed to promote the application of humanitarian law, special mention should be made of the International Fact-Finding Commission, which had been established pursuant to article 90 of Protocol I and whose competence must be recognized by a larger number of States before it could become fully effective. Respect for international humanitarian law must also be guaranteed through its implementation in peacetime. It was particularly important, therefore, that war crimes should not go unpunished and that the provisions of the Geneva Conventions and the Additional Protocols thereto, which provided for sanctions in the event of grave breaches of humanitarian law, should be incorporated into national legislation. Respect for the emblems of the Red Cross and Red Crescent needed to be strengthened and measures taken to punish any misuse thereof. Systematic efforts must be made to spread knowledge of humanitarian law, especially among those bearing weapons, and instruction in humanitarian rules must be adapted to the different social strata of populations.

16. The International Committee of the Red Cross believed that it would be advisable in the future to extend the scope of the agenda item to cover the whole body of international humanitarian law, and especially the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, of 1980, and the four annexed Protocols, including the Protocol dealing with the scourge of anti-personnel mines, as well as the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.

The meeting rose at 10.50 a.m.